

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

TIMM LOREN ELAMON,

Plaintiff,

v.

ACTION NO. 2:06cv202

RED ROBIN INTERNATIONAL, INC.,
trading as
Red Robin America's Gourmet Burgers and
Spirits and Red Robin Gourmet Burgers and
Spirits Emporium,

Defendant.

DISMISSAL ORDER

This matter comes before the court on the defendants' Motion to Dismiss Plaintiff's Complaint, filed April 18, 2006. This matter was referred to United States Magistrate Judge Tommy E. Miller, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 29 of the Local Rules of the United States District Court for the Eastern District of Virginia, for hearings and recommendations for the disposition of the motions.

Report and Recommendation of the magistrate judge was filed on August 17, 2006. The magistrate judge recommended that defendant's motion to dismiss be GRANTED as to all counts. By copy of the report and recommendation of the magistrate judge, the parties were advised of their right to file written objections thereto. Plaintiff's Objections to Findings and Recommendations of United States Magistrate Judge were received by the court and filed

subject to defect by the Clerk on September 7, 2006, because they were late.¹ On September 25, 2006, this court received Defendant's Response to Plaintiff's Objections to the Report and Recommendations of the United States Magistrate Judge.

The court, having examined the objections to the magistrate judge's Report and Recommendation and having made de novo findings with respect thereto, does hereby adopt and approve in full the findings and recommendations set forth in the Report and Recommendation of the magistrate judge filed August 17, 2006. Accordingly, the court GRANTS defendant's motion to dismiss the case.

The Clerk shall forward a copy of this Dismissal Order to counsel of record for plaintiff and defendant.

IT IS SO ORDERED.

/s/
Rebecca Beach Smith

Norfolk, Virginia

September 29, 2006

¹Plaintiff's objections were filed subject to defect because they were late. However, the defendant responded to plaintiff's objections and the court has reviewed the objections de novo. Consequently, the Clerk is DIRECTED to lift the defect and file the objections as of September 7, 2006.